



House of Representatives

General Assembly

File No. 39

January Session, 2011

House Bill No. 6372

House of Representatives, March 7, 2011

The Committee on Public Health reported through REP. RITTER, E. of the 38th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

AN ACT CONCERNING PATIENT ACCESS TO RECORDS MAINTAINED BY HEALTH CARE INSTITUTIONS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 19a-490b of the general statutes is repealed and
2 the following is substituted in lieu thereof (*Effective October 1, 2011*):

3 (a) Upon the written request of a patient or the patient's attorney or
4 authorized representative, or pursuant to a written authorization, an
5 institution licensed pursuant to this chapter shall furnish to the person
6 making such request a copy of the patient's health record, or upon
7 such person's request, allow an on-site examination of the record,
8 including, but not limited to, copies of bills, laboratory reports,
9 prescriptions and other technical information used in assessing the
10 patient's health condition. In addition, an institution shall provide the
11 patient or the patient's designated health care provider with a
12 reasonable opportunity to examine retained tissue slides and retained
13 pathology tissue blocks. Upon the written request of the patient, the
14 patient's attorney or the patient's designated health care provider, an

15 institution shall send the original retained tissue slide or original
16 retained tissue block directly to the patient's designated licensed
17 institution, laboratory or physician. If the original slide or block is not
18 available or if a new section cut of the original slide or block is a fair
19 representation of the original slide or block, then the institution may
20 send the new section cut, which is clearly labeled as a new section cut,
21 to the patient's designated health care provider. Any patient or the
22 patient's attorney or authorized representative who is provided with
23 an original retained slide, tissue block or a new section under the
24 provisions of this subsection shall be solely responsible for
25 safeguarding and returning the slide, block or new section to the
26 institution. Any institution or laboratory that has released an original
27 slide, an original tissue block or new section pursuant to the provisions
28 of this subsection shall not be subject to any liability arising out of
29 releasing or not retaining the slide, block or new section and no cause
30 of action for damages shall arise against any such institution for
31 releasing or not retaining the slide, block or new section. No such
32 institution shall charge more than sixty-five cents per page, including
33 any research fees, clerical fees, handling fees or related costs, and the
34 cost of first class postage, if applicable, for furnishing or providing
35 access to a health record pursuant to this subsection, except such an
36 institution may charge the amount necessary to cover its cost of
37 materials for furnishing a copy of an x-ray or for furnishing an original
38 retained slide, an original tissue block or a new section cut from a
39 retained pathology tissue block. For purposes of this subsection,
40 "health care provider" means an institution or laboratory licensed
41 under this chapter or licensed in the state where located or a physician
42 licensed under chapter 370 or licensed in the state where located.

43 (b) [No institution licensed pursuant to this chapter shall charge for
44 furnishing a health record or part thereof to a patient, his attorney or
45 conservator if the record or part thereof is necessary for the purpose of
46 supporting a claim or appeal under any provision of the Social
47 Security Act and the request for the records is accompanied by
48 documentation of the claim or appeal.] An institution shall furnish the
49 requested record [within] or allow an on-site examination of the record

50 not later than thirty days after the date of the request, unless the
51 request was received [in] less than thirty days [subsequent to] after the
52 date [the patient was discharged] of the patient's discharge, in which
53 case the institution shall furnish the requested record upon its
54 completion.

55 (c) Each institution licensed pursuant to this chapter shall maintain
56 information regarding each patient's status as a veteran, as defined in
57 subsection (a) of section 27-103. Said information shall be made
58 available, upon request, to any duly authorized representative of the
59 Department of Veterans' Affairs.

60 (d) No institution may deny a person the records available under
61 subsection (a) of this section because of the person's inability to pay the
62 required fees. An affidavit from such person attesting to an inability to
63 pay such fees shall be presumptive evidence thereof.

64 (e) No institution licensed pursuant to this chapter shall charge for
65 furnishing a health record or part thereof to a patient, the patient's
66 attorney or conservator, if the record or part thereof is necessary for
67 the purpose of supporting a claim or appeal under any provision of the
68 Social Security Act and the request for the record is accompanied by
69 documentation of the claim or appeal.

70 ~~[(e)]~~ (f) Each institution licensed pursuant to this chapter that ceases
71 to operate shall, at the time it relinquishes its license to the department,
72 provide to the department a certified document specifying: (1) The
73 location at which patient health records will be stored; (2) the
74 procedure that has been established for patients, former patients or
75 their authorized representatives to secure access to such health
76 records; (3) provisions for storage, should the storage location cease to
77 operate or change ownership; and (4) that the department is
78 authorized to enforce the certified document should the storage
79 location cease to operate or change ownership. An institution that fails
80 to comply with the terms of a certified document provided to the
81 department in accordance with this subsection shall be assessed a civil
82 penalty not to exceed one hundred dollars per day for each day of

83 noncompliance with the terms of the certified agreement.

84 (g) A patient, or person designated to act on behalf of such patient,
85 who is aggrieved by the failure of an institution to comply with the
86 provisions of this section, may file a written complaint with the
87 Department of Public Health setting forth the facts that are alleged to
88 constitute a violation of the provisions of this section. Not later than
89 thirty days after the date of receipt of such complaint, the
90 Commissioner of Public Health shall conduct a hearing in accordance
91 with the provisions of chapter 54 on the allegations set forth in the
92 complaint. The commissioner shall provide reasonable notice of the
93 hearing date to the complainant and the institution. If after such
94 hearing the commissioner finds that there has been a substantial
95 failure by the institution to comply with the requirements of this
96 section, the commissioner shall order that the record be disclosed to
97 the complainant not later than five calendar days after the date of the
98 commissioner's written decision. The commissioner's written decision
99 shall be a final decision for the purposes of chapter 54. The
100 commissioner shall adopt regulations in accordance with the
101 provisions of chapter 54 to carry out the purposes of this section. In
102 adopting such regulations, the commissioner shall give due
103 consideration to other state laws governing access to medical records,
104 possible defenses for failing to provide access to medical records, as
105 well as federal law requirements, including those set forth in the
106 Health Insurance Portability and Accountability Act of 1996, P.L. 104-
107 191, as amended from time to time.

This act shall take effect as follows and shall amend the following sections:

Section 1	October 1, 2011	19a-490b
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PH *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 12 \$	FY 13 \$
Public Health, Dept.	GF - Potential Cost	0 - 12,200	0 - 12,200

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill results in a potential cost to the Department of Public Health (DPH) of up to \$12,200 annually. It establishes an administrative hearing process within DPH to address patient complaints regarding the lack of access to health records. In FY 10, DPH received approximately 20 access-to-record complaints. Transcription costs of \$110 per hearing per day, plus an additional \$500 copy fee, could be incurred by DPH. Anticipating that these hearings would not exceed a day in length, the total cost to the department to hold 20 hearings would be \$12,200 annually. It is unknown to what extent complainants will choose to avail themselves of a hearing.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of access-to-records complainants that choose to have a DPH hearing.

OLR Bill Analysis**HB 6372*****AN ACT CONCERNING PATIENT ACCESS TO RECORDS
MAINTAINED BY HEALTH CARE INSTITUTIONS.*****SUMMARY:**

This bill permits individuals to conduct an on-site examination of their health records maintained by a health care institution. It also establishes an administrative hearing process within the Department of Public Health (DPH) to address complaints about lack of access to such records.

EFFECTIVE DATE: October 1, 2011

ACCESS TO PATIENT HEALTH RECORDS

By law, a health care institution (which includes hospitals and other health care facilities) must provide a copy of a patient's health record upon the written request of the patient or his or her attorney or authorized representative. The health record includes copies of bills, lab reports, prescriptions, and other technical information used in assessing the patient's condition. An institution must provide the requested health record within 30 days of the request, unless the patient's request was received less than 30 days from his discharge. In that case, the institution must provide the record when it is completed.

Under the bill, the health care institution must allow, upon the patient's or his representative's request, an on-site examination of the record within the same time periods established under existing law.

By law, the institution must also give the patient or his or her designated provider a reasonable opportunity to examine retained tissue slides and pathology tissue blocks. When the patient or his or her attorney or designated health care provider asks in writing, a

health care institution must send the original retained tissue or slide or original retained tissue block directly to the institution, lab, or physician the patient designates.

An institution can charge up to 65 cents per page, including any research, clerical, and handling fees or related costs, and first class postage, if applicable. The institution can also charge the amount necessary to cover the costs of material for providing a copy of an x-ray or for furnishing an original retained slide, an original tissue block, or a new section cut from a retained pathology tissue block.

The institution cannot charge if the health record is necessary for a documented Social Security claim or appeal.

An institution cannot deny a records request because of a person's inability to pay the required fees. The person must have an affidavit attesting to his or her inability to pay.

COMPLAINT PROCESS

Under the bill, a patient or a person designated to act for the patient, can file a written complaint with DPH if the institution fails to comply with the patient record access requirements, including the on-site examination. The complaint must provide the facts alleged to be a violation of the law. DPH must hold a hearing within 30 days of receiving the complaint, according to the Uniform Administrative Procedure Act (UAPA). The DPH commissioner must give reasonable notice of the hearing date to the complainant and the health care institution.

If the commissioner finds, after the hearing, that there has been a substantial failure by the institution to comply, she must order the health record disclosed to the complainant within five calendar days of the decision. Her decision is a final decision for UAPA purposes.

DPH must adopt regulations to carry out these provisions and give due consideration to other state laws on medical records, possible defenses for failure to provide access to records, and federal law

requirements, including those of the Health Insurance Portability and Accountability Act (HIPAA).

COMMITTEE ACTION

Public Health Committee

Joint Favorable

Yea 21 Nay 2 (02/25/2011)